

TFC Contact No. 18-013-000  
Amendment No. 2  
RFP No. 303-5-01875  
Driessen Water Inc. dba Austin Culligan

**AMENDMENT NO. 2  
TO THE  
CONTRACT FOR  
REVERSE OSMOSIS AND ACID WASTE NEUTRALIZATION SYSTEMS:  
BOTTLE RENTAL, SANITIZATION, MAINTENANCE AND REPAIR SERVICES  
BETWEEN  
THE TEXAS FACILITIES COMMISSION  
AND  
DRIESSEN WATER INC., DBA AUSTIN CULLIGAN**

**THIS AMENDMENT NO. 2** is entered into by and between the Texas Facilities Commission (hereinafter referred to as "TFC"), a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701 and Driessen Water Inc. dba Austin Culligan (hereinafter referred to as "Contractor"), located at 505 West Yager Lane, Austin, Texas 78753, to amend the original Contract between the Parties (hereinafter referred to as the "Contract"), as amended.

WHEREAS, on July 24, 2017, the Parties entered into that one certain Contract for *Reverse Osmosis and Acid Waste Neutralization Systems: Bottle Rental, Sanitization, Maintenance and Repair Services between the Texas Facilities Commission and Driessen Water Inc. Dba Austin Culligan* (hereinafter referred to as the "Contract"); and

WHEREAS, on June 4, 2018, the Parties entered into Amendment No. 1 to the Contract for the purpose of making an administrative change regarding delivery releases and to add statutorily required provisions; and

WHEREAS, the Parties desire to remove certain references to "bottle rental" as well as fees associated with bottle rental, and to provide for additional fees, updating the Criminal Background Checks and Guidelines as to TFC contact information, and to amend other terms to their mutual benefit; and

WHEREAS, subject to Contract Section 10.21, Entire Contract and Modification, such modifications may only be made by a written amendment to the Contract executed by the Parties;

NOW, THEREFORE, the parties agree to amend the Contract as follows:

1. The Parties agree to modify the Contract, as amended, so that, effective March 1, 2019, all references in the Contract, as amended, to "bottle rental," are deleted in their entirety.
2. The parties hereby agree to modify ARTICLE I – STATEMENT OF WORK, Section 1.01, General, by deleting Section 1.01, General, in its entirety, and replacing it with Section 1.0, General, as follows:

"1.01. **GENERAL.** (a.) Contractor shall provide sanitization, maintenance, and repair services for the reverse osmosis (hereinafter referred to as "RO") and acid waste

neutralization (hereinafter referred to as "AWN") systems at the Texas Department of State Health Services (hereinafter referred to as "DSHS") Dr. Bob Glaze Laboratory Services Section Building (hereinafter referred to as "DBGL"), located at 1100 West 49<sup>th</sup> Street, Austin, Texas 78756. Contractor shall provide all labor, materials, equipment, tools and transportation required to perform the services described in this Contract.

(b.) Contractor shall provide regular delivery and pick-up of bottles, and perform the services that shall include, but are not limited to the following. All charges for these services shall be included in Contractor's monthly invoice:

- (i.) tank regeneration once per month;
- (ii.) troubleshoot polishing bottle issues;
- (iii.) deliver and disconnect/connect all bottles to the RO system; and
- (iv.) be able to respond to emergency or urgent situations by delivering bottles within one hour, 365 days a year.

(c.) Contractor shall provide RO loop sanitizing. Annual Sanitizing will take place on a weekend, with the schedule to be set by the Contract Administrator, as defined in Section 1.04 below. The following items, which shall include, but not be limited to, shall be completed by the Contractor:

- (i.) provide and replace twelve (12) #3084 UV Lamps;
- (ii.) provide and replace fourteen (14) # 251084002 final filters, 40", 0.2u;
- (iii.) calibrate resistivity meter per probe;
- (iv.) provide portable ozone (03) generator(s) for sanitation of the DI loop, sufficient to yield a positive ozone reading in return water supply(ies);
- (v.) complete all sanitization work the same day work begins.

(d.) TFC may, from time to time, initiate projects and identify RO and AWN systems repair and/or maintenance services to Contractor and document such services through a separate document (hereinafter referred to as a "Delivery Release"). Such Delivery Releases will be subject to the terms and conditions set forth in this Contract, and shall include a description of the project assignment, scope of services, schedule and term, and compensation specific to the Delivery Release which shall be negotiated at the time of such Delivery Release. Any work completed by Contractor without a Delivery Release will not be paid for by TFC.

(e.) Contractor shall respond to the initial request within one (1) hour to acknowledge job requirements. Contractor shall respond to a requirement sent out by the Contract

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Administrator within a twenty-four (24) hour period. "Response" is defined by submitting an estimate for the job requirements or to schedule a site visit, whichever is applicable within twenty-four (24) hours.

(f.) Emergency/After Hours Service Calls:

(i.) Emergency Service Calls may be started with written approval from the Contract Administrator without prior issuance of a Delivery Release. Services performed without prior written approval by Contract Administrator shall not be paid.

(ii.) Services shall be requested and performed as authorized and directed by the Contract Administrator and billed at rates included in Exhibit A – Compensation and Fees.

(iii.) Contractor shall respond to RO and AWN system emergency service calls onsite within one hour of notification by Contract Administrator.

(g.) Travel time to and from the job site is not reimbursable under this contract. Contractors shall check in and out with the authorized TFC representative to ensure that representative logs the start and completion times on the service ticket for the services performed. Contractors shall provide the following information on the service ticket: Building name, floor, name of personnel performing the work, and equipment serviced.

(h.) Freight and shipping costs are not an allowable expense under this contract. Expedited shipping costs, with prior approval from Contract Administrator, may be allowed.

(i.) Project Completion Time: Contractor must perform work within the timeframe which was agreed upon by the Contractor and the Contract Administrator. If Contractor cannot perform the work within the timeframe stated, Contractor may be subject to liquidated damages of up to 20% of the total cost of the submitted job estimate.

(j.) Pricing: Materials and labor shall be quoted in the format provided on Exhibit A – 2 Effective March 1, 2019 - Revised Compensation and Fees. TFC reserves the right to request a copy of price list or receipt for materials to verify percentage discount or cost."

3. The parties hereby agree to modify ARTICLE III – CONSIDERATION, Section 3.01(a), Contract Limit and Fees and Expenses, by increasing the Contract base fee and additional services amounts, and replacing Compensation and Fees, "Exhibit A", with "Exhibit A-2," Revised Compensation and Fees to be effective as of March 1, 2019. To this end, Section 3.01(a), Contract Limit and Fees and Expenses, is hereby deleted in its entirety and replaced with Section 3.01(a), Contract Limit and Fees and Expenses, as follows:

"3.01. CONTRACT LIMIT AND FEES AND EXPENSES. (a.) The total amount of this Contract shall not exceed the sum of Two Hundred Thousand Two Hundred Twenty and No/100 Dollars (\$200,220.00). This amount includes the Fiscal Year 2018 – 2019 Contract base fee of Thirty-Two Thousand Two Hundred Twenty and No/100 Dollars (\$32,220.00) and One Hundred

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Sixty-Eight Thousand and No/100 Dollars (\$168,000.00) to cover Additional Services, as defined in Section 3.03 below. Pricing fees will be invoiced in accordance with Exhibit A-2 - Revised Compensation and Fees Effective March 1, 2019. Any changes to the not-to-exceed amount of this Contract or pricing fees set forth in Exhibit A-2 - Revised Compensation and Fees Effective March 1, 2019, shall be submitted to TFC for review and shall be approved by amendment to this Contract.”

4. The parties further agree to modify the Contract so that all references therein to “Exhibit C,” Criminal Background Checks and Application Guidelines, are replaced with “Exhibit C-2,” Criminal Background Checks and Application Guidelines, attached hereto and incorporated herein for all purposes.

Except as expressly amended above, all provisions of the Contract remain in full force and effect.

In Witness Whereof, the parties hereto have made and executed this Amendment No. 2 to this Contract to be effective as of March 1, 2019.

**TEXAS FACILITIES COMMISSION**

By:   
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Mike Novak

Executive Director

Date of execution: 02/14/2019 | 11:32 AM CST

GC NRG  
DIR 

**DRIESSEN WATER INC. DBA AUSTIN CULLIGAN**

By:   
7481A9F4F7DA41B...

Print Name: Steve Gallagher

Title Print: C & I Design/Sales

Date of execution: 02/14/2019 | 9:53 AM CST

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**EXHIBIT A-2**  
**REVISED COMPENSATION AND FEES**  
**EFFECTIVE MARCH 1, 2019**

**Exhibit A-2**  
**Revised Compensation and Fees**  
**Effective March 1, 2019**

<b>Part 1: Polishing Bottle</b>	<b>PER BOTTLE</b>	<b>Monthly Price</b>
Regeneration Fee per Bottle:	\$ <u>240.00</u> x 4 =	\$ <u>960.00</u>
Emergency Delivery Fee (as needed):	\$ <u>0.00</u>	

**Part 2: Annual Sanitization of Reverse Osmosis System**

Total Annual Sanitization Price: \$ 6,570.00

**UNIT/DETAIL PRICING:** (Note: Total price above includes all work necessary to complete the annual sanitization. TFC requests additional unit and line item pricing detail as indicated below).

#3084 UV Lamps, EA	\$ <u>70.00</u>
#251084002 Final Filters, 40", 0.2μ, EA	\$ <u>295.00</u>
Ozone	\$ <u>400.00</u>

**Part 3: Maintenance and Repair of Reverse Osmosis (RO) and Acid Waste Neutralization (AWN) Systems**

Standard Normal Hourly Rate\* \$ 100.00 /HR

Overtime Hourly Rate\*\* \$ 150.00 /HR

**Materials:**

Materials not covered under Part 1 or Part 2 above:

Material Markup: Contractor shall invoice at MSRP/List\*\*\* price minus 0 percent.

Materials purchased at local retail outlets by Contractor field staff. Contractor shall invoice at cost (sales receipt/invoiced price).

\***Normal Hours** is defined as 7:30 AM – 5:30 PM Monday through Friday

\*\* **Overtime Hours** is defined as any hours that fall outside of Normal Hours or Weekends

\*\*\*MSRP/List - TFC reserves the right to request from awarded vendor any published or printed catalog that reflects MSRP/List price for verification purposes.

PROMPT PAYMENT CASH DISCOUNT: \_\_\_\_\_ % \_\_\_\_\_ DAYS

**PAYMENT TERMS:** Discounts for prompt payment will not be considered in the evaluation of proposals. However, any offered discount will for a part of the award, and will be taken if earned.

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## **EXHIBIT C-2**

### **CRIMINAL BACKGROUND CHECKS AND APPLICATION GUIDELINES**

## TEXAS FACILITIES COMMISSION

### CRIMINAL BACKGROUND CHECKS AND APPLICATION

### GUIDELINES

It is the policy of the Texas Facilities Commission ("TFC") that all contractor employees and subcontractors that will complete any work on-site at a state-owned property may be subject to a criminal background check. Any expense associated with such criminal background check shall be borne by the contractor. Contractor employees and subcontracts who work in case-sensitive areas shall be required to submit to a criminal history background check. If requested by TFC, a complete criminal background check shall be completed before any employee performs services at the site. Criminal background checks must be performed by the Texas Department of Public Safety ("DPS") and must be on the form provide by TFC.

#### I. CRIMINAL HISTORY CRITERIA

Employers should use the following criminal history criteria when hiring employees to perform work for TFC. Any employee failing to meet the minimum standard will be denied. If special circumstances exist, please contact the TFC representative for clarification or further consideration.

A conviction or deferred adjudication for one of the following offenses will result in the **permanent disqualification** of a person from eligibility to provide contractual services with Texas Facilities Commission:

- (i) any act causing death as defined in Texas Penal Code; and
- (ii) any felony or misdemeanor involving arson, burglary, breach of computer security, credit card abuse, counterfeiting, forgery, kidnapping, robbery, stalking, terroristic threat, theft, and any sexual offense designated as a felony in Texas Penal Code.

Additionally, anyone who has a current duty to register as a sex offender, is under indictment or is a fugitive from justice is disqualified.



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**Texas Facilities Commission---Criminal Background Checks and Application Guidelines**

For individuals who have a conviction or deferred adjudication for felonies not enumerated above, 10 years must have passed from the time of disposition or discharge of probation in order for that person to be eligible to provide contractual services with the TFC.

For individuals who have a misdemeanor conviction or deferred adjudication for misdemeanors not enumerated above, 5 years must have passed from the time of disposition or discharge of probation in order for that person to be eligible to provide contractual services with the TFC.

**II. CRIMINAL BACKGROUND PROCESS**

DPS has entered into an exclusive contract with Identogo Centers, formerly L-1 Enrollment Services, operated by MorphoTrust USA. Identogo by MorphoTrust is the exclusive live scan fingerprinting provider for DPS. All TFC contractors that are subject to TFC criminal background check requirements must create an account with Identogo in accordance with the Identogo Account Application and requirements attached hereto as "Attachment A". Thereafter, all contractor employees and subcontractors must follow the registration procedures attached hereto as "Attachment A" including using the *Texas Facilities Commission Service Code 11G6ZN*. All necessary instructions and information to schedule a fingerprint appointment is included in Attachment A. In addition, the only service code accepted by DPS for a TFC criminal background check is the service code provided in Attachment A, hereto, therefore, if an individual does not use the service code in Attachment A, he or she may be required to repeat the process at the expense of contractor. Contractors can begin the process by simply clicking on this link:

<https://uenroll.identogo.com/servicecode/11G6ZN>

Additionally, forms and instructions can be found on the Identogo website at <http://www.identogo.com> by clicking on the State of Texas. Links on that page include one for online scheduling and a list for the state-wide fingerprinting locations. The waiver form for the criminal background check is attached hereto as "Attachment B". In the event Contractor needs to set up a new account, please refer to the attached link for instructions: <http://www.l1enrollment.com/state/forms/tx/566718664f05a.pdf>.

**III. CRIMINAL HISTORY ERROR RESOLUTION**

The Error Resolution Unit ("ER") is responsible for updating and evaluating possible errors in criminal history records. Potential errors are reported to ER by law enforcement, judicial agencies, as well as private citizens.

If an applicant would like to make a request that a criminal history record be updated or corrected, the applicant will need to supply certified documents to the ER. Required forms and additional information submit a correction request to the ER can be found at:

[http://txdps.state.tx.us/administration/crime\\_records/pages/errorresolution.htm](http://txdps.state.tx.us/administration/crime_records/pages/errorresolution.htm).

**IV. TFC CONTACTS**

For any questions involving the TFC criminal background check process, please contact the following:

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**Exhibit C-2**

**Texas Facilities Commission---Criminal Background Checks and Application Guidelines**

Tommy Oates, Deputy Executive Director

Office: 512-463-3057

Cell: 512-463-3376

Email: [tommy.oates@tfc.state.tx.us](mailto:tommy.oates@tfc.state.tx.us)

Mandy Burrell, Sr. Rick Manager / Continuity Manager

Office: 512-463-1799

Cell: 512-247-1290

Email: [mandy.burrell@tfc.state.tx.us](mailto:mandy.burrell@tfc.state.tx.us)

Morningstar Roldan, Badging Lead

Office: 512-463-1878

Cell: 512-563-9309

Email: [morning.roldan@tfc.state.tx.us](mailto:morning.roldan@tfc.state.tx.us)

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Driessen Water Inc. DBA Austin Culligan

Texas Facilities Commission---Criminal Background Checks and Application Guidelines

## **ATTACHMENT A**

### **Facilities Commission (ORI Facilities Commission/Service Code 11G6ZN)**

The general process for electronic fingerprinting is:

1. Schedule an appointment to be electronically fingerprinted by MorphoTrust USA at one of their IdentoGo enrollment centers.
  - Internet based scheduling is the quickest and most convenient way to obtain a fingerprint appointment.
    - a. You may begin the process now by simply clicking on this link:  
<https://uenroll.identogo.com/servicecode/11G6ZN>
    - b. Provide all required pre-enrollment data and select a convenient date and time for your appointment
  - If you prefer to schedule over the telephone, you must:
    - a. Have your Service Code ready (**11G6ZN**), then call **888.467.2080**;
    - b. MorphoTrust will prompt you for the Service Code (**11G6ZN**);
    - c. Provide all required pre-enrollment data and select a convenient date and time for your appointment
2. Arrive at your scheduled appointment with your photo identification and fee
  - If you plan on bringing a form of identification other than a valid (unexpired) TX Driver License, please refer to the Department of Public Safety's acceptable document types here: <http://www.tl1enrollment.com/state/forms/tx/55fc619a7f7aa.doc>
  - MorphoTrust accepts Visa/MasterCard/Discover/American Express, business checks, money orders and coupon codes (employer accounts) at the time of service.
  - Please note that personal checks and cash are **not accepted**.
3. Your fingerprints will be submitted electronically to DPS and the FBI. You will not receive a printed fingerprint card.
4. At the conclusion of your appointment, the MorphoTrust enrollment agent will provide you with an IdentoGo receipt stating that you were fingerprinted.
  - Do not throw away the receipt;
  - You may check status on your submission by clicking on this link:  
<https://uenroll.identogo.com/servicecode/11G6ZN> and then;
  - Click "Check Status"

Fingerprints provided for this application shall be used to check criminal history records of the Texas Department of Public Safety and the Federal Bureau of Investigation, in accordance with applicable statutes.

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Texas Facilities Commission---Criminal Background Checks and Application Guidelines

## **ATTACHMENT B**

TFC Contract No. 18-013-000

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**IdentoGO**  
By MorphoTrust USA

Texas Fingerprint Service Code Form

Facilities Commission

**Service Name: Facilities Commission**

To schedule your ten-minute fingerprint appointment, simply visit  
**<https://uenroll.identogo.com>** and enter the following Service Code

**11G6ZN**

Service Code is unique to your hiring/licensing agency. Do not use this code for another purpose.

**Background Check Waiver**

I certify that all information I provided in relation to this criminal history record check is true and accurate. I authorize the Texas Department of Public Safety (DPS) to access Texas and Federal criminal history record information that pertains to me and disseminate that information to the designated Authorized Agency or Qualified Entity with which I am or am seeking to be employed or to serve as a volunteer, through the DPS Fingerprint-based Applicant Clearinghouse of Texas and as authorized by Texas Government Code Chapter 411 and any other applicable state or federal statute or policy.

I authorize the Texas Department of Public Safety to submit my fingerprints and other application information to the FBI for the purpose of comparing the submitted information to available records in order to identify other information that may be pertinent to the application. I authorize the FBI to disclose potentially pertinent information to the DPS during the processing of this application and for as long hereafter as may be relevant to the activity for which this application is being submitted. I understand that the FBI may also retain my fingerprints and other applicant information in the FBI's permanent collection of fingerprints and related information, where all such data will be subject to comparisons against other submissions received by the FBI and to further disseminations by the FBI as may be authorized under the Privacy Act of 1974 (5 USC 552a). I understand my fingerprints will be searched by and against civil, criminal and latent fingerprints in the Next Generation Identification (NGI) system. I understand I am entitled to obtain a copy of any criminal history record check and challenge the accuracy and completeness of the information before a final determination is made by the Qualified Entity. I also understand the Qualified Entity may deny me access to children, the elderly, or individuals with disabilities until the criminal history record check is completed. If a need arises to challenge the FBI record response, you may contact the agency that submitted the information to the FBI, or you may send a written challenge request to the FBI's Criminal Justice Information Services (CJIS) Division at FBI CJIS Division, Attention: Correspondence Group, 1000 Custer Hollow Road, Clarksburg, WV 26306.



Don't have access to the Internet? You can still schedule an appointment by calling 888.467.2080